

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BASECAP ANALYTICS INC.,

Plaintiff,

-against-

ROBERT AMENN,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/26/2023

1:23-cv-09370-MKV

**ORDER DENYING EX PARTE
TEMPORARY RESTRAINING
ORDER AND SETTING BRIEFING
SCHEDULE**

MARY KAY VYSKOCIL, United States District Judge:

This action was commenced on October 24, 2023 with the filing of a complaint by Plaintiff [ECF No. 1], and an accompanying motion, brought on by a Proposed Order to Show Cause, for Emergency Injunctive Relief in the form of an *ex parte* temporary restraining order and a preliminary injunction [ECF No. 5], together with a supporting memorandum of law and several declarations and exhibits [ECF No. 7].

Although Plaintiff requests an *ex parte* temporary restraining order, the Court notes that Plaintiff has provided Defendant with notice by serving copies of its publicly-available filings upon Plaintiff's email address, including the complaint and the Proposed Order to Show Cause, but not the memorandum of law and supporting materials at ECF No. 7. [See ECF No. 5-1 ¶ 11]. The Court further notes that, according to the allegations in the complaint, the relevant conduct took place in June and July 2023. [ECF No. 1 ¶¶ 39–42]. The Court therefore declines to enter the proposed *ex parte* Temporary Restraining Order and Order to Show Cause, as Plaintiff has not shown “that immediate and irreparable injury, loss, or damage will result to [it] before [Defendant] can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). Defendant shall have an opportunity to be heard.

It is HEREBY ORDERED that Plaintiff shall effect service on Defendant of the complaint together with a copy of this Order, Plaintiff's motion, and any supporting papers, on or before October 27, 2023 at 4:00 PM EST. It is FURTHER ORDERED that any response by Defendant to the motion shall be served and filed by November 3, 2023. The Court will hold a hearing on Plaintiff's motion on November 7, 2023 at 3:00 PM in Courtroom 18C of the Daniel Patrick Moynihan Courthouse at 500 Pearl Street, New York, NY 10007.

It is FURTHER ORDERED that during the pendency of Plaintiff's motion, the parties shall preserve in their current state any devices, including cell phones, tablets, laptops, computers, electronic storage media, and access credentials to electronic storage data repositories, that may contain Plaintiff's trade secrets and proprietary or confidential information, and all data contained therein. **FAILURE TO COMPLY WITH ORDERS OF THE COURT AND THE FEDERAL RULES OF CIVIL PROCEDURE MAY RESULT IN SANCTIONS.**

SO ORDERED.

Date: **October 26, 2023**
New York, NY



MARY KAY VYSKOCIL
United States District Judge